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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/817,060

04/02/2004

Richard J. Schneider

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2661

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7590

03/18/2008

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EXAMINER

PANDYA, SUNIT

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

03/18/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/817,060	<b>Applicant(s)</b> SCHNEIDER, RICHARD J.	
	<b>Examiner</b> SUNIT PANDYA	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

This action is in response to amendment filed by the applicant on 1/24/2008, wherein claims 1, 6, 7, 16 and 21 were amended.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-21 are rejected under 35 U.S.C. 102(a) as being anticipated by Baerlocher (US Patent Publication 2003/0060266).

Claims 1, 7: Baerlocher discloses of a gaming machine with a secondary game comprising accepting a wager, comparing the wager to a pre-selected wager threshold (or a trigger condition) and initiating the secondary (bonus) game when the accepted wager equals the pre-selected wager threshold, wherein the initialization of the bonus game occurs when the wagered amount crosses a threshold (or a trigger condition) (0061-0062 & 0065).

Claim 2: Baerlocher discloses of accepting a wager to play the base (primary) game (0032).

Claims 3, 20: Baerlocher discloses initiating the secondary (bonus) game when the accepted wager equals the pre-selected wager threshold (0061-0062 & 0064).

Claim 4: Baerlocher discloses comparing the accepted wager to a maximum wager (0073).

Claim 5: Baerlocher discloses comparing the accepted wager to an amount less than a maximum wager (0067-0068).

Claim 8: Baerlocher discloses of a first indicator for primary game and a second indicator for a secondary game (0035-0037).

Claim 9: Baerlocher discloses of reel being an indicator (0032).

Claim 10: Baerlocher discloses of wheel being a second indicator (0032).

Claims 11, 13: Baerlocher discloses the prestored trigger being a wager type or amount (0061-0062).

Claim 12: Baerlocher discloses that the wager type is a maximum wager amount (0073).

Claim 14: Baerlocher discloses that the prestored trigger is a wager source (wherein the wager source is the source which evokes machine into action 0061-0062).

Claim 16: Baerlocher discloses of a gaming machine with a secondary game comprising accepting a wager on primary or base game, comparing the wager to a pre-selected wager threshold (or a trigger condition) and initiating the secondary (bonus) game when the accepted wager equals the pre-selected wager threshold (or a trigger condition) (0061-0062 & 0064). Baerlocher also discloses of reporting the winning of each game back to the players to display the total winnings (0036, 0044).

Claims 17-19: Baerlocher discloses that the first outcome is the primary game outcome and secondary outcome is the secondary or bonus game outcome, and

any combination thereof with the primary and the secondary game outcomes (0036-0044 & 000061-0065).

Claim 21: Baerlocher discloses of a server couple to plurality of gaming machines (0039). Baerlocher also discloses of a gaming machine with a secondary game comprising accepting a wager, comparing the wager to a pre-selected wager threshold (or a trigger condition) and initiating the secondary (bonus) game when the accepted wager equals the pre-selected wager threshold (or a trigger condition) (0061-0062 & 0064).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baerlocher as applied to claims above, and further in view of Feinberg (US Patent 5,910,048).

Claim 6: Baerlocher teaches of a gaming machine with a secondary game comprising accepting a wager, comparing the wager to a pre-selected wager threshold and initiating the secondary (bonus) game when the accepted wager equals the pre-selected wager threshold, wherein the initialization of the bonus game occurs when the wagered amount crosses a threshold (or a trigger condition) (0061-0062 & 0065),

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however Baerlocher fails to teach a player tracking card, used by the player during the game play.

Feinberg teaches of player tracking card, which is inserted into the gaming machine, wherein the gaming machine, includes a play counter, which tracks the amount of money paid into the slot machine by the player (col. 3: 41-46). It would have been obvious for one with ordinary skill in the art at the time of the invention to have modified Baerlocher to include a player tracking card, which tracks the amount of money paid into the gaming machine by the players, to track the amount played by the player (col. 1: 50-52)

Claim 15: Feinberg teaches that the wager source is a player-tracking card (col. 3:42-50).

### ***Response to Arguments***

Applicant's arguments filed 1/24/2008 have been fully considered but they are not persuasive.

The applicant argues that the Baerlocher do not describe nor suggest initiating a secondary game when an accepted wager equals a pre-selected wager threshold. The examiner respectfully disagrees with the applicant. As discussed above, Baerlocher discloses of different embodiments used to initiate bonus round or bonus play (secondary play) on the said gaming machine, including a wager dependent bonus activation, where, as disclosed above, the bonus round trigger is activated when a certain amount of money is deposited by the player, thus surpassing the barrier required

by the machine to initiate the bonus play (see rejection above, other embodiments disclosed by the reference of Baerlocher are additional ways to achieve bonus play on the machine and are not required to be necessary in order to achieve the initial Wager dependent bonus game, as stated by the independent claims)

Regarding the applicant's arguments that Baerlocher does not describe not suggest a controller structured to initiate the secondary game responsive to a signal received from a determiner. The examiner respectfully disagrees with the applicant. As disclosed in figure 2 and also in paragraphs 35-36, Baerlocher teaches of a processor, a memory connected to the processor, wherein the memory holds game programs which controls the gaming device so that the play on the gaming machine occurs with applicable game rules and pay-tables. Thus, Baerlocher, inherently disclose of a processor adapted to keeps count of all the wagers submitted by the player at the gaming machine, and when the submitted amount exceeds the required amount, the processor activates the bonus round (secondary game).

#### ***Examiner's Note***

Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as

well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIT PANDYA whose telephone number is (571)272-2823. The examiner can normally be reached on 8 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/

Supervisory Patent Examiner, Art Unit 3714

SP